

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

_____)	
UNITED STATES OF AMERICA,)	
Complainant,)	8 U.S.C. § 1324a Proceeding
)	
v.)	OCAHO Case No. 98A00019
)	
T.W. & SON KNITTING MILLS INC.,)	Judge Robert L. Barton, Jr.
Respondent.)	
_____)	

**ORDER NOTING DEFAULT AND REQUIRING RESPONDENT
TO SHOW CAUSE WHY COMPLAINANT'S MOTION FOR
DEFAULT JUDGMENT SHOULD NOT BE GRANTED**

(January 8, 1998)

Respondent served a request for hearing in this matter on June 3, 1997. A complaint alleging violations of 8 U.S.C. 1324 was filed on October 30, 1997, by the Immigration and Naturalization Service. The complaint was mailed to Respondent by certified mail and the return receipt card shows that Respondent received the complaint on November 10, 1997. On January 7, 1998, Complainant filed a Motion for Default Judgment, supported by a Declaration of Counsel, asserting that because Respondent has not filed an answer to the complaint as required by the Rules of Practice, a default judgment should be entered. See 28 C.F.R. § 68.9(a).

The Rules of Practice provide that within thirty days after the service of a complaint a respondent shall file an answer. 28 C.F.R. § 68.9(a). The Rules further provide that failure by a respondent to file an answer within the thirty day period shall be considered a waiver of the right to appear and contest the allegations of the complaint, and the Judge may enter a judgment by default. 28 C.F.R. § 68.9(b). If a default judgment is entered, the request for hearing is dismissed, judgment is entered for the complainant and a civil penalty is assessed without a hearing.

Since an answer has not been received in this case, Respondent is in default. However, before granting Complainant's motion, I will give Respondent a further opportunity to correct the default and answer the complaint. Therefore, within twenty days of the date of this Order, Respondent shall serve an answer to the complaint. An original and two copies of the answer must

be served on the Court, and a copy also must be served on Complainant's counsel Mimi Tsankov. Respondent must include a certificate of service which indicates all of those who have been served with the answer. The answer must address the specific allegations of the complaint. General denials are not permitted, and any allegations not specifically denied shall be deemed to be admitted. Respondent should consult 28 C.F.R. § 68.9 for more information about the requirements for an answer, a copy of which was provided to Respondent with the Notice of Hearing mailed on November 5, 1997.

At the same time that Respondent serves its answer to the complaint, Respondent also shall state why the answer in this case was not filed in a timely manner. If Respondent fails to show good cause for the late filing, I may refuse to accept the late filed answer. If Respondent fails to comply with this Order, I may grant Complainant's motion for default judgment and enter a civil penalty against Respondent.

If Respondent has any questions about this Order, it may contact my law clerk Laura Conner at (703) 305-1739.

ROBERT L. BARTON, JR.
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of January, 1998, I have served the foregoing Order Noting Default and Requiring Respondent To Show Cause Why Complainant's Motion for Default Judgement Should Not Be Granted on the following persons at the addresses shown, by first class mail, unless otherwise noted:

Mimi Tsankov
Assistant District Counsel
Immigration and Naturalization Service
P.O. Box 2669
New York, NY 10008-2669
(Counsel for Complainant)

Vasa Tapalaga, President
T.W. & Son Knitting Mills, Inc.
54 Knikerbocker Ave., 2nd Floor
Brooklyn, NY 11237
(Respondent)
(certified mail and first class mail)

Dea Carpenter
Associate General Counsel
Immigration and Naturalization Service
425 "I" Street, N.W., Room 6100
Washington, D.C. 20536

Office of the Chief Administrative Hearing Officer
Skyline Tower Building
5107 Leesburg Pike, Suite 2519
Falls Church, VA 22041
(Hand Delivered)

Linda Hudecz
Legal Technician to Robert L. Barton, Jr.
Administrative Law Judge
Office of the Chief Administrative Hearing Officer
5107 Leesburg Pike, Suite 1905
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